

**REAL ESTATE APPRAISER BOARD
NOVEMBER 15, 2005
LIQUOR CONTROL COMMISSION HEARING ROOM
5TH FLOOR, STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

OPENING

Chairman Dan Stoeber called to order the November 15, 2005 regular meeting of the Nebraska Real Estate Appraiser Board at 9:00 a.m. Board members Jim Bain, Kevin Kroeger, Sheila Newell and Dan Stoeber were present. Board Member Tim Kalkowski was absent and excused. Jill Ekstein, Director, was also present.

NOTICE OF MEETING

Chairman Stoeber announced the notice of the meeting was published in the Lincoln Journal Star, a newspaper of general circulation in Nebraska, as required by the public meeting law. The public notice and proof of publication relating to this meeting are attached and made part of these minutes.

AGENDA

Chairman Stoeber asked if there were any additions or corrections to the agenda. Stoeber asked to amend the agenda and add an emergency item under New Business stating the engagement letter of Rembolt, Ludke LLP. Kroeger moved to approve the agenda as amended adding the engagement letter of Rembolt, Ludke LLP, as an emergency item under New Business. Newell seconded. The motion carried with Bain, Kroeger, Newell and Stoeber voting aye.

Kroeger moved to adopt the agenda as amended. Newell seconded. The motion carried with Newell, Bain, Kroeger and Stoeber voting aye.

GUESTS

Chairman Stoeber welcomed the guests in attendance. Present were Robert Nefsky, Rembolt, Ludke LLP; Diane Moore, President of the Moore Group; Scott Hankins; Maurice Baker, Executive Secretary of the Nebraska Chapter of ASFMRA.

MINUTES

Chairman Stoeber asked for any additions or corrections to the minutes of the October 18, 2005, meeting. Newell moved to approve the minutes of the October 18, 2005, meeting. Bain seconded. The motion carried with Kroeger, Newell, Bain and Stoeber voting aye.

DIRECTOR'S REPORT

Director Ekstein reported with approximately 960 appraisers credentialed in the State of Nebraska, she had received only 326 renewal applications. She informed the Board she expected the last two weeks of November would be extremely busy as she anticipated receiving the majority of the remaining renewals the last three days of November.

Director Ekstein introduced her new Staff Assistant, Kirsten Hale. Ekstein stated she appreciated the Board allowing her and Chairman Stoeber to conduct the interview process.

Ekstein reported she had received a letter from Attorney General John Bruning appointing Rembolt, Ludtke LLP to assist the Board with enforcement matters.

Chairman Stoeber asked Director Ekstein to report on the Appraisal Foundation meetings in Washington, D.C. Ekstein deferred the report to Vice Chairman Kroeger. Kroeger provided a summary of the meetings he and Ekstein attended. He provided information from The Appraisal Foundation Advisory Committee (TAFAC), the Appraisal Qualifications Board and the Appraisal Standards Board meetings.

CHAIRMAN'S REPORT

Chairman Stoeber welcomed Kirsten to the staff as well as Robert Nefsky from Rembolt, Ludke LLP. He stated he had nothing else to report.

EXPENDITURES

Director Ekstein presented the expenditure report for the month of October. She reported Vice Chairman Kroeger had assisted with calculating the budget numbers and correcting the report to accurately reflect the budgeted expenditures according to the appropriations. Bain moved to approve the October expense report. Kroeger seconded. The motion carried with Newell, Bain, Kroeger and Stoeber voting aye.

UNFINISHED BUSINESS

Mentor Program

Board Member Newell reported the Board appears to still have some misunderstanding in the Mentor Program. She stated there are some appraisers who are supervising trainees and are referring to themselves as mentors. Newell reviewed the minutes and read the section regarding the mentor program from the February 2005 minutes. Newell informed the Board she believed an application needed to be created and approved for individuals wishing to be mentors. She said the approved mentors would need to follow a renewal process similar to the issued credentials. Newell explained she would be willing to create the application for discussion at the next meeting. Kroeger suggested the mentor program should be outlined and discussed on the website. Kroeger asked to leave the mentor program on the agenda for the next meeting for further discussion.

Firm Date – Segmented Date

Director Ekstein stated at the Board's request, following the October meeting of the Nebraska Real Estate Appraiser Board, she put information on the website regarding the decision of the Board to implement the "firm date" scenario for the 2008 AQB Criteria. She explained she had received a few letters and had been asked by the Chairman and Vice Chairman to read the letters to the members of the Board. Ekstein read the letters received in the office.

Chairman Stoeber offered three possibilities for the Board to consider: make no change in the decision to implement the criteria using the "firm date" scenario, make a partial change by allowing people who have started the education process in 2005 to have one additional year for experience, or change to implementing the "segmented date" scenario.

The Board members discussed the possible scenarios. Vice Chairman Kroeger suggested the Board consider the option of segmenting the implementation of the criteria and allowing applicants to complete the current education curriculum, pass the exam and have an additional year to complete the experience.

The Board took a ten minute recess.

Kroeger moved to rescind the October 2005 decision to implement a "firm date" scenario and adopt the segmented scenario requiring all existing education and testing criteria to be met by December 31, 2007, with the experience component being extended to December 31, 2008. It will be the Board's position that applicants will only be allowed to complete the existing examination once all current education criteria are met. If the education component is not met by December 31, 2007, the applicant will be held responsible for all new AQB criteria. It is further the intent of the Board that the segmented scenario be adopted in conjunction with the modifications made in the Nebraska Real Estate Appraiser Act. Bain seconded. The motion carried with Bain, Kroeger and Stoeber voting aye. Board member Newell voted no.

Appraiser Act

Vice Chairman Kroeger provided extensive background information on the work which has been completed concerning the amending of the Real Estate Appraiser Act as well as the Rules and Regulations. Kroeger explained he felt the Board needed to move forward on the changes. Kroeger stated it was important for the Board to move forward with minimal but mandatory modifications to the Act to ensure the legislation would be ready to submit to the legislature by January 1, 2006. He suggested the Board authorize Director Ekstein to proceed with contacting the necessary individuals for drafting changes to the Act, securing Senator Chris Langemeier (District 23 – Schuyler) to sponsor a bill modifying the Act and reporting the progress.

Kroeger moved to authorize Director Jill Ekstein to immediately contact the individuals or agencies necessary for drafting changes to the Nebraska Real Estate Appraiser Act with the intent being to incorporate into the Act changes to Statutes §76-22041 through §76-2250 as required to meet new requirements of The Appraiser Qualification Board which are to go into effect on January 1, 2008; to incorporate into the Act changes to Statutes §76-2201 through §76-2250 as required by the Appraisal Subcommittee's recent review of the State of Nebraska; and to incorporate into the Act changes to Statutes §76-2201 through §76-2250 as required to eliminate conflicts between the Nebraska Real Estate Appraiser Act and Title 298 – Rules and Regulations of the Nebraska Real Estate Appraiser Board. The Board also hereby authorizes Director Jill Ekstein to proceed with contacting Senator Chris Langemeier for purposes of determining his desire to support and sponsor a Bill to amend the Nebraska Real Estate Appraiser Act. It is the Board's desire to have Director Ekstein have this task completed and have a Bill supporting the amendments to the Act ready for submission to the full Legislature by January 1, 2006.

Having been given this authorization, Director Ekstein will also provide weekly e-mail updates to all Board members as to the on-going status of the amendment process and will be responsible for providing a final draft outlining changes made to the Act, for Board approval, prior to its submission as a Bill to the full legislature in the 2006 session.

Newell seconded. The motion carried with Bain, Kroeger, Newell and Stoeber voting aye.

NEW BUSINESS

Income Capitalization

Diane Moore, The Moore Group, addressed the Board regarding the new criteria implementation and how the changes affect the education providers. Diane stated the Certified Residential credential requires residential sales comparison and income approach for thirty (30) hours. She said the current requirement is a thirty hour strictly income course. Diane asked if the change could be made immediately or at a certain time. Vice Chairman Kroeger clarified until the new criteria are implemented effective January 1, 2008, changes could not be made to the current core curriculum.

Engagement Letter with Remboldt, Ludke LLP

Director Ekstein introduced the engagement letter provided by Robert Nefsky, Remboldt, Ludke LLP. She explained one copy would remain at the Appraiser Board Office and the other would be returned to the attorneys. Chairman Stoeber explained the Board had received a letter from the Attorney General appointing special counsel to assist the Board with enforcement matters.

Newell moved to agree and accept the engagement letter dated November 15, 2005, with Remboldt, Ludke LLP specifically stating Robert L. Nefsky as supervisor and further authorize Chairman Stoeber to sign the letter as acceptance for the Board. Bain seconded. The motion carried with Kroeger, Newell, Bain and Stoeber voting aye.

GENERAL PUBLIC COMMENTS

There were no general public comments.

EDUCATION

Vice Chairman Kroeger provided an overview of the submitted education applications.

The Moore Group submitted: Residential Site Valuation and Cost Approach (qualifying education – 15 hours), Residential Sales Comparison & Income Approaches (qualifying education – 30 hours), National USPAP Update (continuing education – 7 hours), 2005 FHA Residential Appraisal Requirements and the URAR (continuing education – 6 hours) and Residential Report Writing (qualifying education – 15 hours). All of the pre-qualifying education courses submitted by the Moore Group fall under the new AQB criteria and meet the requirements of the new matrix and core curriculum. Kroeger recommended Board approval for all submissions.

The Appraisal Institute submitted: FHA and the New Residential Appraisal Forms (continuing education), Appraising Manufactured Housing (continuing education – 7 hours), The Professionals Guide to the Uniform Residential Appraisal Report (continuing education – 7 hours), Reviewing Residential Appraisal Reports (continuing education – 7 hours), National USPAP (continuing education – 7 hours). Kroeger recommended Board approval for all of the submissions **except** FHA and the New Residential Appraisal Forms. This submission needs to be resubmitted on the Board approved form.

McKissock submitted: Construction Details and Trends (continuing education – 7 hours), Appraising the Odd Ball (continuing education – 7 hours), Appraising for the Secondary Market (continuing education – 7 hours), Fair Housing (continuing education – 4 hours), FHA Appraising Today (continuing education – 7 hours) and Income Capitalization (continuing education – 7 hours). All of the submissions are distance education activities taught online. Kroeger recommended Board approval.

The American Society of Farm Managers and Rural Appraisers Inc. submitted: Standards and Ethics for Managers (continuing education – 8 hours). Kroeger recommended Board approval.

Kroeger moved to accept the qualifying education and continuing education seminars as outlined in the document entitled November Board Meeting Education Applications with the exception of the continuing education seminar offered by the American Society of Farm Managers and Rural Appraisers Inc., Standards and Ethics for Managers. Newell seconded. The motion carried with Bain, Kroeger, Newell and Stoeber voting aye.

Kroeger moved to accept the continuing education seminar, Standards and Ethics for Managers, submitted by the American Society of Farm Managers and Rural Appraisers for eight hours (8) of continuing education. Bain seconded. The motion carried with Bain, Kroeger and Stoeber voting aye. Newell voted no.

Kroeger moved to approve the instructors as outline in the Instructor Approval form for the courses previously approved by the Board. Newell seconded. The motion carried with Newell, Bain, Kroeger and Stoeber voting aye.

The Board took a ten minute recess.

At 10:47 a.m., Kroeger moved that the Appraiser Board go into Executive Session for the purpose of reviewing qualifications of applicants, the consideration of written complaints and for personnel matters. A closed session is clearly necessary for the prevention of needless injury to the reputation of the individual or individuals involved in the personal matters relating to applications being reviewed, performance and disciplinary matters to be considered and personnel matters. Newell seconded. The motion carried with Bain, Kroeger, Newell and Stoeber voting aye. Board members, Director and Robert Nefsky were present during this executive session.

Kroeger moved the Appraiser Board come out of closed session at 12:18 p.m. Bain seconded. The motion carried with Newell, Bain, Kroeger and Stoeber voting aye.

APPLICANTS

Newell moved to approve the following applicants:

Registered

R110501 Kenneth Alford
R110502 Dennis Smith
R110503 Chad Howser
R110505 Phillip Simon

Licensed

L10052 Judy Riggle

Certified Residential

CR110501 Tammy Massengale
CR512 Melissa Wisniewski

Newell further moved:

R110504 Applicant must take Fundamentals of Real Estate Appraisal
L110501 Send reports out for USPAP compliance review
L110502 Send reports out for USPAP compliance review
L110503 Send reports out for USPAP compliance review
CR110502 Applicant needs to submit experience on Board approved log
CG110501 Send reports out for USPAP compliance review

and to authorize Director to respond in writing on experience hours to the October fax. Kroeger seconded the motion. The motion carried with Bain, Kroeger, Newell and Stoeber voting aye.

ENFORCEMENT

Kroeger moved the following:

- 05-29 Send letter to appraiser asking for copy of the appraisal and work file
- 05-20 Send cease and desist letter
- 05-21 No jurisdiction; dismiss
- 05-22 Advertising without credential – cite statute §76-2229; send cease and desist letter
- 05-23 Advertising without credential – cite statute §76-2229; send cease and desist letter
- 05-24 Send letter to appraiser asking for copy of the appraisal and work file
- 05-25 Send letter to appraiser asking for copy of the appraisal and work file
- 05-05 Reviews were not accepted; turn file over to Remboldt, Ludtke LLP
- 05-02 Terms of consent agreement have been met; close
- 05-13 Vote to dismiss; case is tied to education taken in conjunction with consent agreement completed for case 05-02
- 05-06 Terms of consent agreement have been met; close
- 05-07 Terms of consent agreement have been met; close
- 05-11 Send warning letter regarding supervising appraisers; reference case 05-06; close
- 05-12 Reviews were accepted; dismiss
- 05-15 Reviews were not accepted; turn file over to Remboldt, Ludtke LLP
- 05-18 Send letter to appraiser asking for copy of the appraisal and work file
- 05-30 Send cease and desist letter

Newell seconded. The motion carried with Bain, Kroeger, Stoeber and Newell voting aye.

Regarding enforcement case 05-14, Kroeger moved to turn file over to Remboldt, Ludtke LLP for further review. Bain seconded. The motion carried with Bain, Kroeger and Stoeber voting aye. Newell abstained.

Regarding enforcement case 05-17, Kroeger moved to dismiss as the Board has no jurisdiction. Newell seconded. The motion carried with Bain, Kroeger and Newell voting aye. Stoeber abstained.

Newell moved to add the emergency item of approval of Instructor, John Ross, for the 7 hour seminar “Market Analysis and the Site to do Business” offered by the Appraisal Institute, Nebraska Chapter, approved March 15, 2005 to the agenda. Bain seconded the motion. The motion carried with Bain, Stoeber, Kroeger and Newell voting aye.

Newell moved to adopt the second amended agenda. Bain seconded the motion. The motion carried with Newell, Bain, Kroeger and Stoeber voting aye.

Newell moved to approve John Ross, as instructor for the 7 hour seminar "Market Analysis and the Site to do Business". Bain seconded the motion. The motion carried with Bain, Newell and Stoeber voting aye. Kroeger abstained.

At 1:00 P.M. Kroeger moved that the Appraiser Board go into Executive Session for the purpose of personnel matters. A closed session is clearly necessary for the prevention of needless injury to the reputation of the individual or individuals involved in personnel matters. Newell seconded the motion. The motion carried with Bain, Kroeger, Newell and Stoeber voting aye. Board members were present during this executive session.

At 1:37 P.M. Kroeger moved that the Appraiser Board come out of closed session. Newell seconded the motion. The motion carried with Kroeger, Newell, Bain and Stoeber voting aye.

PERSONNEL

Newell moved to ratify the Director's decision to offer full-time employment to Kirsten Hale with an effective date of November 15, 2005, for the Staff Assistant II position, an overtime eligible position, with an hourly salary of \$13, with those benefits and subject to the terms and conditions of applicable law and provisions. Bain seconded. The motion carried with Kroeger, Newell, Bain and Stoeber voting aye.

Kroeger moved to implement an increase to the Nebraska Real Estate Appraiser Board Director's salary, increasing the salary from \$50,000 per year to \$60,000 per year retroactive to November 14, 2005. Newell seconded. The motion carried with Newell, Bain, Kroeger and Stoeber voting aye.

DECEMBER MEETING DATE

The next meeting of the Nebraska Real Estate Appraiser Board will convene at 9:00 a.m., Tuesday, December 20, 2005. The meeting was adjourned at 1:40 p.m.

Respectfully Submitted,

Jill Ekstein
Director

These minutes were available for public inspection on November 23, 2005, in compliance with Nebraska Statute §84-1413(5).